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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,113	07/29/2003	Hidefumi Notagashira	1232-4862	6990
27123	7590	02/26/2004	EXAMINER	
MORGAN & FINNEGANT, L.L.P. 345 PARK AVENUE NEW YORK, NY 10154			KOVAL, MELISSA J	
			ART UNIT	PAPER NUMBER
			2851	

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/629,113	NOTAGASHIRA, HIDEFUMI	
	<b>Examiner</b>	<b>Art Unit</b>	AW
	Melissa J Koval	2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 24-29 is/are allowed.
- 6) Claim(s) 21-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. 10/157,556.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Allowable Subject Matter***

Claims 24 through 29 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record neither shows nor suggests a projector apparatus comprising all of the elements of claim 23, dependent upon claim 21, and in particular with respect to claim 23, “a heat conductivity of material of one of said substrates is smaller than those of materials of the remaining substrates.”

The prior art of record neither shows nor suggests a projector apparatus having all of the elements of claim 24, and in particular “wherein a thickness of said substrate of said optical element arranged on exit surface side of said first image forming panel is larger than those of said substrate of said optical element arranged on an exit surface side of said second and third image forming panels in said optical elements each arranged on exit surface side of said first image forming panel, said second image forming panel and said third image forming panel.”

The prior art of record neither shows nor suggests a projector apparatus having all of the elements of claim 26, and in particular “wherein an area of said substrate of said optical element arranged on exit surface side of said first image forming panel is larger than those of said substrate of said optical element arranged on an exit surface side of said second and third image forming panels in said optical elements each

arranged on exit surface side of said first image forming panel, said second image forming panel and said third image forming panel."

The prior art of record neither shows nor suggests a projector apparatus having all of the elements of claim 28, and in particular "wherein a surface area of said substrate of said optical element arranged on exit surface side of said first image forming panel is larger than those of said substrate of said optical element arranged on an exit surface side of said second and third image forming panels in said optical elements each arranged on exit surface side of said first image forming panel, said second image forming panel and said third image forming panel."

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 21-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,619,803 B2. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because the term "different" as set forth in claim 21 of the application is met by the term "different" as set forth in dependent claim 5 of the patent. The arrangement of "optical elements," i.e. plural elements, as set forth in claim 21 of the application is suggested by the phrase "at least one" as set forth in claim 1 of the patent, for example, with respect to transparent substrates. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use plural arrangements of optical elements as required by a three color system.

With respect to claim 23, the phrase "wherein a heat conductivity of material of one of said substrates is smaller than those of materials of the remaining substrates" is implied by claim 5 of the patent for example. It is notoriously well known in the art that sapphire has a high heat conductivity when compared to some of the other materials listed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that when using different materials, as described in claim 5 of the patent for example, and as claimed, one material having a larger or smaller heat conductivity than the other material used may comprise the apparatus. The motivation for one having ordinary skill in the art to make such a distinction in use of materials would be to increase the operating life of the device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takezawa et al. U.S. Patent 6,536,901 B2 teaches a projector.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa J Koval whose telephone number is (571) 272-2121. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on Monday through Thursday at (571) 272-2851. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The receptionist may be reached at 571-272-2800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK



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